

## District Judge Daybook Entry

United States District Court - Southern District of West Virginia at Huntington

Date: 5/9/2016

Case Number 2:13-cv-21588

Case Style: Ohio Valley Environmental Coalition vs. Fola Coal Company, LLC

Type of hearing Trial to the Court

Before the honorable: 2514-Chambers

Court Reporter Teresa Ruffner

Courtroom Deputy Terry Justice

Attorney(s) for the Plaintiff or Government Michael Becher, James Hecker, Joseph Lovett

Attorney(s) for the Defendant(s) Shane Harvey, Jennifer Hughes, Robert McLusky

Law Clerk Jon Sheffield

Probation Officer

Trial Time

Non Jury Trial. Day No: 1

Non-Trial Time

Court Time

9:07 am to 10:57 am

11:16 am to 12:19 pm

2:12 pm to 3:51 pm

4:05 pm to 5:04 pm

Total Court Time: 5 Hours 31 Minutes Court actively conducting trial proceedings/Contested proceedings

Courtroom Notes

Trial scheduled to commence: 9:00 am

Trial commenced: 9:07 am

Argument as to witness Meek.

Opening statements.

Plaintiffs' 1st witness, Dr. Drew McAvoy, sworn & examined.

Plaintiffs' exhibit #179 identified & admitted.

Plaintiffs' exhibit #181 identified.

Plaintiffs' exhibit #182 identified.

Plaintiffs' exhibit #183 identified.

Plaintiffs' exhibit #184 identified.

Plaintiffs' exhibit #185 identified.

Plaintiffs' exhibit #186 identified.

Plaintiffs' exhibit #187 identified.

Plaintiffs' exhibit #226 identified.

Plaintiffs' exhibit #230 identified.

10:57 am Recess.

11:16 am Plaintiffs' exhibit #s 181, 182, 183, 184, 185, 186, 187, 226 admitted.

Plaintiffs rested.

Defendant's 1st witness, Tim Verslycke, sworn & examined.

Defendant's exhibit #253 identified.

Defendant's exhibit #254 identified.

Plaintiffs' exhibit #199 identified.

Defendant's exhibit #253 admitted.

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12:19 pm Recess.

2:12 pm Defendant's 2nd witness, Dana Burns, sworn & examined.

Defendant's exhibit #216 identified.

Defendant's exhibit #217 identified.

Defendant's exhibit #218 identified.

Defendant's exhibit #219 identified.

Defendant's exhibit #220 identified.

Defendant's exhibit #251 identified.

Defendant's exhibit #226 identified.

Defendant's exhibit #227 identified.

Defendant's exhibit #224 identified.

Defendant's exhibit #228 identified.

Defendant's exhibit #225 identified.

Defendant's exhibit #229 identified.

Plaintiffs' exhibit #188 identified.

Plaintiffs' exhibit #235 identified.

3:51 pm Recess.

4:05 pm Resume

Defendant's exhibit #s 216, 217, 218, 219, 220, 221, 222, 224, 225, 227, 228, 229, 251 admitted.

Plaintiffs' exhibit #s 235 and 188 admitted.

Plaintiffs' exhibit #s 2 and 3 from Phase I trial admitted (counsel to provide copies and have marked).

Defendant's 3rd witness, Alan Meek, sworn & examined.

Defendant's exhibit #230 identified.

Defendant's exhibit #232 identified.

Defendant's exhibit #245 identified.

Defendant's exhibit #246 identified.

Defendant's exhibit #241 identified.

Defendant's exhibit #242 identified.

Defendant's exhibit #247 identified.

Defendant's exhibit #233 identified.

Defendant's exhibit #234 identified.

Defendant's exhibit #239 identified.

Defendant's exhibit #240 identified.

Defendant's exhibit #250 identified.

5:04 pm Adjourn.